



DEVELOPMENT OF AMENDMENTS TO AMBIENT AIR QUALITY STANDARDS

#03-69 (APCB) / LSA Document #03-69

Overview

The Indiana Department of Environmental Management (IDEM) has developed draft rule language that would add the new federal standard for ozone to Article 326.

Citations Affected

Amends 326 IAC 1-3-4.

Affected Persons

Citizens, especially citizens with respiratory ailments; industries.

Reason for the Rule

The 8-hour ozone standard is a federal standard. Indiana does not adopt its own air quality standards but follows the federal standards.

Economic Impact of the Rule

U.S. EPA has calculated cost savings associated with the health benefits of the new ozone standard. Additional costs to industry may be required as a result of future rulemakings needed to meet the new ozone standard.

Benefits of the Rule

The new ozone standard is measured over a longer time to protect citizens against longer and lower ozone exposures, especially children, at-risk populations, and those who work outside during the day. High ozone levels cause decreased lung function, increased respiratory symptoms, hospital admissions and emergency room visits. The new standard will also protect against ozone-induced effects on vegetation.

Description of the Rulemaking Project

The United States Environmental Protection Agency (U.S. EPA) has set National Ambient Air Quality Standards (NAAQS) for six common air pollutants, also called "criteria" pollutants. The criteria pollutants are carbon monoxide, nitrogen dioxide,

ozone, lead, particulate matter, and sulfur dioxide.

The Clean Air Act, which was passed in 1970 and last amended in 1990, requires U.S. EPA to set NAAQS for pollutants that cause adverse effects to public health and the environment. The Clean Air Act established primary and secondary air quality standards. Primary standards protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. The primary standard is often referred to as the health standard. Secondary standards protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings. Standards are reviewed periodically to ensure that they include the most recent scientific information.

On July 18, 1997, U.S. EPA announced a new stricter NAAQS for ozone. After a lengthy scientific review process, including extensive external scientific review, U.S. EPA determined that these changes were necessary to protect public health and the environment. The new standard is intended to be more protective of the health of children and adults who play and work outdoors in the summer.

In establishing the 8-hour standard, U.S. EPA set the standard at 0.08 parts per million (ppm) as an average over an 8-hour period and defines the new standard as a "concentration-based" form, specifically the 3-year average of the annual 4th-highest daily maximum 8-hour ozone concentrations. This standard is in addition to the existing one-hour ozone standard, which remains effective nationwide. U.S. EPA is expected to clarify the transition between the two ozone standards in upcoming rules to implement the 8-hour ozone standard. Since the one hour standard remains in effect, Indiana is maintaining that standard at this time. However, IDEM has updated the one-hour ozone standard language to ensure consistency with the most current

version of the federal ozone standards.

U.S. EPA intends to designate areas of the county that do not meet the 8-hour ozone standard as “nonattainment areas” in 2004. Indiana is expected to have a number of areas designated nonattainment, mostly large urban areas. Those designations will start a process in which the state will work with local communities, businesses and citizens to develop plans to bring the areas into attainment in the future.

The draft rule also includes minor stylistic changes to conform to legislative service agency standards.

Scheduled Hearings

First Public Hearing: June 4, 2003 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rule is consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first

comment period. A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner’s determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner’s determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Gayla Killough, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).